

# Staff Report 12

General Lease – Recreational Use

## **APPLICANT:**

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Steven J. Sell and Margaret D. Williams, Trustees of the Steven J. Sell and Margaret D. Williams Revocable Inter Vivos Trust

## **PROPOSED ACTION:**

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### **AREA, LAND TYPE, AND LOCATION**

Sovereign land located in Lake Tahoe, adjacent to 4950 North Like Boulevard, near Carnelian Bay, Placer County.

### **AUTHORIZED USE:**

Continued use and maintenance of an existing pier, boat lift, and two mooring buoys.

### **TERM:**

10 years, beginning August 20, 2020.

### **CONSIDERATION:**

\$1,227 per year, with an annual Consumer Price Index adjustment.

### **SPECIFIC PROVISIONS:**

- Liability insurance in an amount no less than \$1,000,000 per occurrence.
- Lessee expressly acknowledges and agrees that issuance of a lease does not substitute for, or provide preference in, obtaining authorizations from the Tahoe Regional Planning Agency (TRPA) or any other regulatory agency for the improvements authorized by the Commission.
- Lessee shall not store any personal items or construct any improvements in the Public Trust easement which may impair the public uses of access, navigation, fishing, and lake-related recreation.

## **STAFF ANALYSIS AND RECOMMENDATION:**

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### **AUTHORITY:**

Public Resources Code sections 6005, 6216, 6301, 6501.1, 6503, and 6503.5; California Code of Regulations, title 2, sections 2000 and 2003.

### **PUBLIC TRUST AND STATE'S BEST INTERESTS:**

On June 28, 2010, the Commission authorized a Recreational Pier Lease for the continued use and maintenance of an existing pier, boat lift, and two mooring buoys to Karen Ann Hoeck ([Item C05, June 28, 2010](#)). The lease expired on June 27, 2020.

On October 16, 2017, fee interest in the upland parcels transferred to Steven J. Sell and Margaret D. Williams, Trustees of the Steven J. Sell and Margaret D. Williams Revocable Inter Vivos Trust. Staff recommends the Commission accept compensation from the Applicant for the unauthorized occupation of State land in the amount of \$3,491 for the period beginning October 16, 2017, through August 19, 2020, the day before the proposed new lease becomes effective.

The Applicant is applying for a General Lease – Recreational Use, for the continued use and maintenance of the existing pier, boat lift, and two mooring buoys. The Applicant registered the mooring buoys and boat lift with TRPA (Permit No. 10712).

The Applicant owns the uplands adjoining the lease premises. The subject facilities are privately owned and maintained. The pier, boat lift, and mooring buoys are used for the docking and mooring of boats. Recreational boating is a water-dependent use that is generally consistent with the common law Public Trust Doctrine. The California Legislature has identified private recreational boating facilities as an authorized use of Public Trust land (Pub. Resources Code, § 6503.5).

The pier, boat lift, and mooring buoys have existed for many years at this location. The pier is built on single pilings with the immediate area of the pier surrounded by pebbles and small boulders. The topography and location of upland structures allows for public access for pedestrians and lake-related activities at varying water levels underneath the pier. The buoys are located directly lakeward of the upland property and occupy a relatively small area of the lake.

The proposed lease does not alienate the State's fee simple interest, or permanently impair public rights. The lease is limited to a 10-year term and does not grant the Lessee exclusive rights to the lease premises and reserves an easement to the public for Public Trust-consistent uses. Upon termination of the lease, the lessee may be required to remove all improvements from State land and restore the lease premises to their original condition.

The proposed lease requires the lessee to insure the lease premises and indemnify the State for any liability incurred as a result of the lessee's activities thereon. The lease also requires the payment of annual rent to compensate the people of the State for the occupation of the public land involved.

For all the reasons above, staff believes the issuance of this lease will not substantially interfere with Public Trust needs at this location, at this time, and for the foreseeable term of the proposed lease; and is in the best interests of the State.

## **OTHER PERTINENT INFORMATION:**

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1. Approval or denial of the application is a discretionary action by the Commission. Each time the Commission approves or rejects a use of sovereign land, it exercises legislatively delegated authority and responsibility as trustee of the State's Public Trust lands as authorized by law. If the Commission denies the application, the Applicant, as the prior lessee, may be required to remove the pier, boat lift, and two mooring buoys and restore the premises to their original condition. Upon expiration or prior termination of the lease, the lessee also has no right to a new lease or to renewal of any previous lease.
2. This action is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction and Strategy 1.3 to protect, expand, and enhance appropriate public use and access to and along the State's inland and coastal waterways.
3. On October 24, 2018, the TRPA's Governing Board certified a Final Environmental Impact Statement and adopted Lake Tahoe Shorezone Ordinance Amendments.
4. Staff recommends that the Commission find that this activity is exempt from the requirements of the California Environmental Quality Act (CEQA) as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15300 and California Code of Regulations, title 2, section 2905.

## **EXHIBITS:**

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- A. Land Description
- B. Site and Location Map

## **RECOMMENDED ACTION:**

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It is recommended that the Commission:

### **CEQA FINDING:**

Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15061 as a categorically exempt project, Class 1, Existing Facilities, California Code of Regulations, title 2, section 2905, subdivision (a)(2).

### **PUBLIC TRUST AND STATE'S BEST INTERESTS:**

Find that the proposed lease will not substantially impair the public rights to navigation and fishing or substantially interfere with the Public Trust needs and values at this location, at this time, and for the foreseeable term of the lease; is consistent with the Public Trust Doctrine; and is in the best interests of the State.

### **AUTHORIZATION:**

1. Authorize acceptance of compensation from the Applicant in the amount of \$3,491 for unauthorized occupation of State lands for the period beginning October 16, 2017, through August 19, 2020.
2. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning August 20, 2020, for a term of 10 years, for the continued use and maintenance of a pier, boat lift, and two existing mooring buoys, as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; annual rent in the amount of \$1,227, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

**EXHIBIT A**

**LEASE 8341**

**LAND DESCRIPTION**

Three (3) parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 2 of fractional Section 21, Township 16 North, Range 17 East, MDM., as shown on Official Government Township Plat approved November 10, 1865, County of Placer, State of California, and more particularly described as follows:

**PARCEL 1 - PIER**

All those lands underlying an existing pier, boat lift, and catwalk lying adjacent to that parcel described in Grant Deed recorded October 31, 2017 as Document Number 2017-0085399-00 in Official Records of said County.

TOGETHER WITH any applicable Impact Area(s).

EXCEPTING THEREFROM any portion lying landward of elevation 6223 feet LTD on the shoreline of said Lake Tahoe.

**PARCELS 2 & 3 - BUOYS**

Two (2) circular parcels of land, each being 50 feet in diameter, underlying two (2) existing buoys lying adjacent to that parcel described in in Grant Deed recorded October 31, 2017 as Document Number 2017-0085399-00 in Official Records of said County.

Accompanying plat is hereby made part of this description.

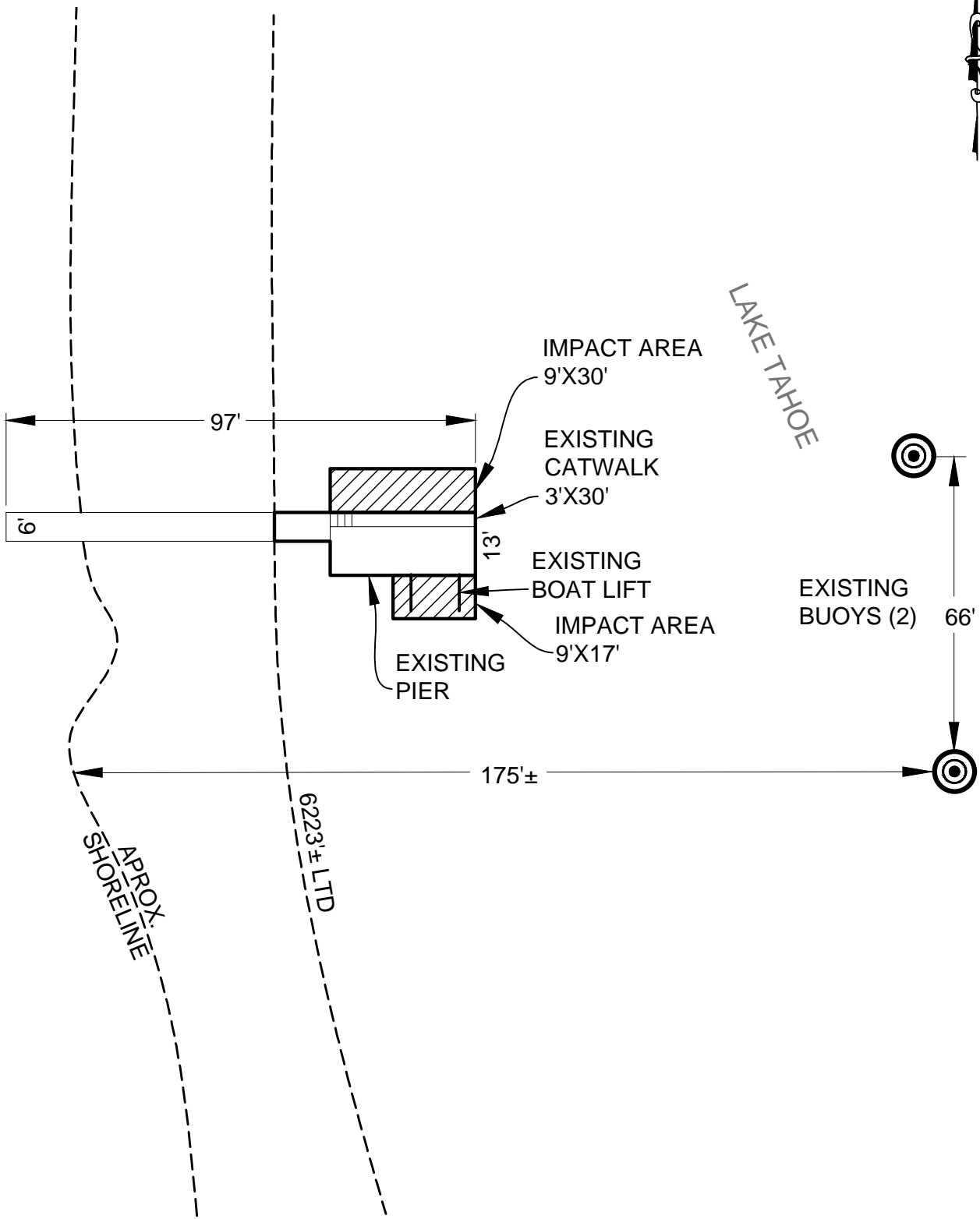
**END OF DESCRIPTION**

Prepared 6/11/2020 by the California State Lands Commission Boundary Unit.





APN 091-153-005

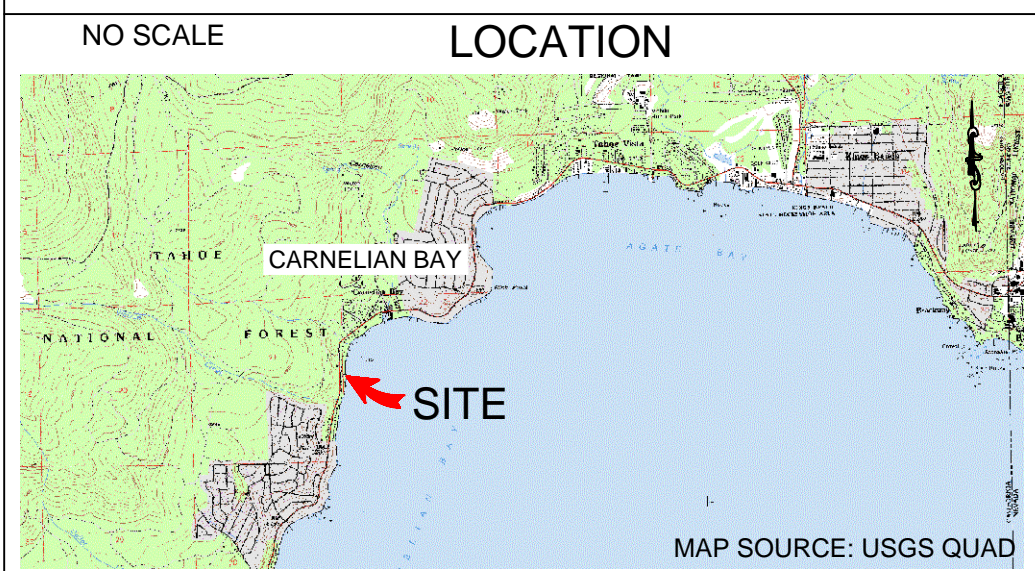
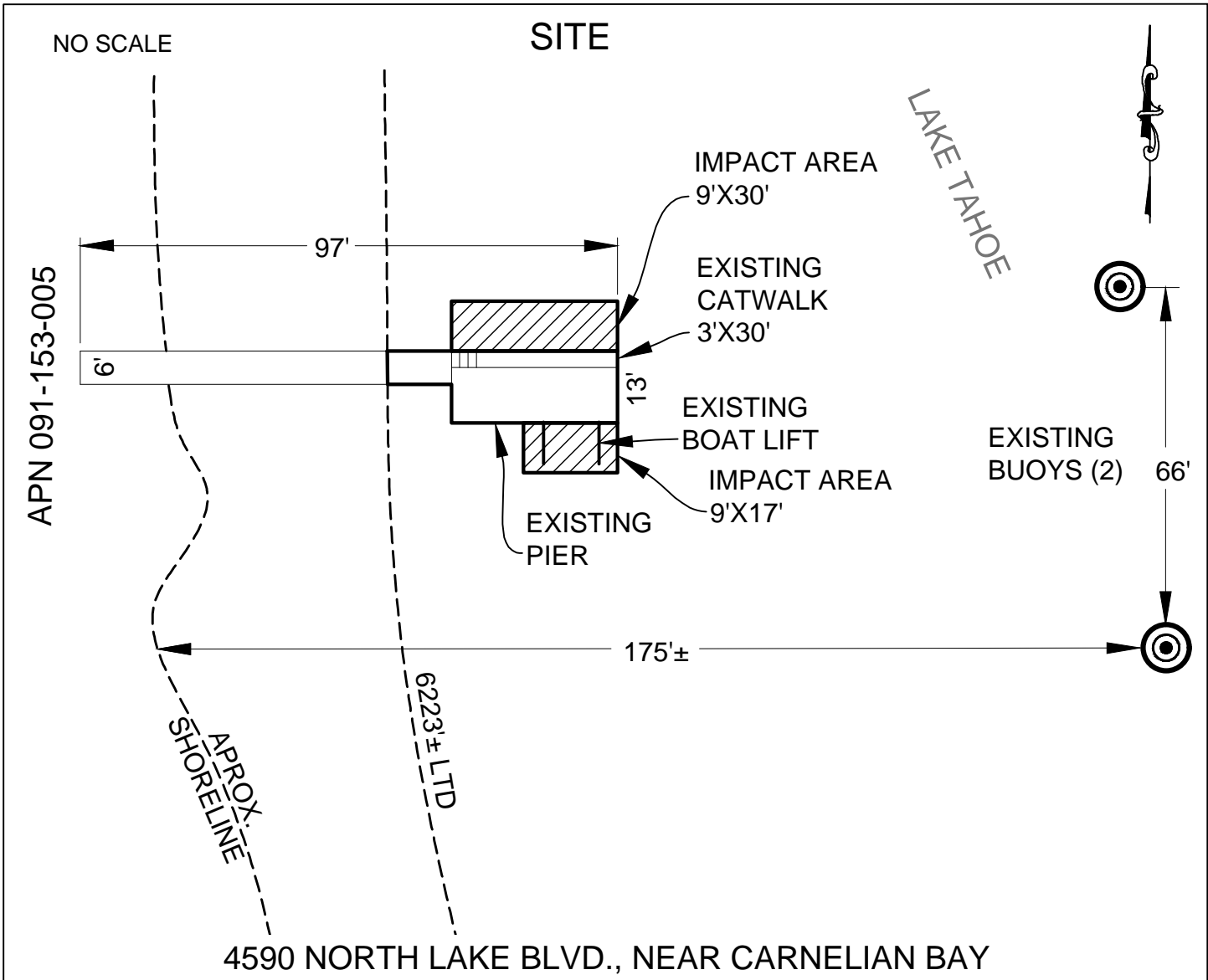


# EXHIBIT A

LAND DESCRIPTION PLAT  
 LEASE 8341, SELL & WILLIAMS TRUST  
 PLACER COUNTY

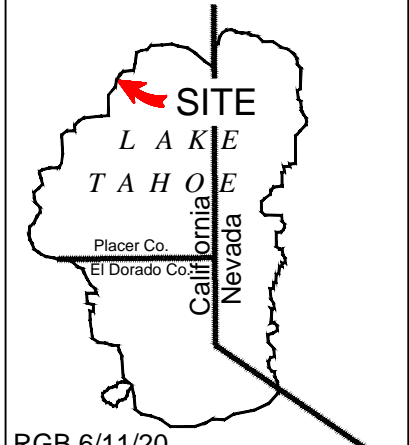
CALIFORNIA STATE  
 LANDS COMMISSION





**EXHIBIT B**

LEASE 8341  
 SELL & WILLIAMS TRUST  
 APN 091-153-005  
 GENERAL LEASE -  
 RECREATIONAL USE  
 PLACER COUNTY



RGB 6/11/20

THIS EXHIBIT IS SOLELY FOR PURPOSES OF GENERALLY DEFINING THE LEASE PREMISES, IS BASED ON UNVERIFIED INFORMATION PROVIDED BY THE LESSEE OR OTHER PARTIES AND IS NOT INTENDED TO BE, NOR SHALL IT BE CONSTRUED AS, A WAIVER OR LIMITATION OF ANY STATE INTEREST IN THE SUBJECT OR ANY OTHER PROPERTY.